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SUMMARY RECORD OF THE 285th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 30 April 1997, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Third periodic report of Mexico

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GE.97-16310 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Third periodic report of Mexico (CAT/C/34/Add.2; HRI/CORE/1/Add.12/Rev.1)

1. At the invitation of the Chairman, Mr. Joublanc, Mr. Hernández Basave and Ms. Pérez-Duarte (Mexico) took places at the Committee table.

2. Mr. JOUBLANC (Mexico), introducing Mexico's third periodic report, said that the struggle against torture was the result of the combined efforts of various bodies, at different levels of the federal and state administrations. Progress was already apparent; according to the figures published by the National Human Rights Commission and the state commissions, the number of acts of torture had fallen in recent years. The Government nevertheless appreciated that much remained to be done in order to eliminate torture completely. It acted directly by means of various prevention and training programmes set up by the agencies of the Federal Government and through the Office of the Attorney-General of the Republic and the state procurators' offices, in cooperation with the National Human Rights Commission and the state commissions.

3. The successive reports submitted by the Government of Mexico to the Committee against Torture showed the various measures adopted and their results. The members of the Committee would note, for example, that the Federal Act to Prevent and Punish Torture, promulgated in 1986, had been amended, and subsequently replaced by a new Act promulgated in 1991, which had also been amended. It should be emphasized that the origin of some of the legislative reforms lay in the constructive dialogue which the Government maintained with the Committee, other United Nations entities involved in combating torture, and NGOs.

4. The third periodic report covered the period between May 1992 and December 1995 and essentially dealt with the activities of the National Human Rights Commission and the Office of the Attorney-General of the Republic and the measures adopted pursuant to the Federal Act to Prevent and Punish Torture.

5. Since the establishment of the National Human Rights Commission in June 1990, human rights commissions had been set up in each of the 31 states of the Republic and in the Federal District. Whereas in the past all complaints relating to torture had been dealt with by the National Commission, it currently dealt with complaints against the federal authorities or acted as a review body, while complaints concerning state governments were considered by the state commissions.

6. Action to combat torture was taken at several levels. He would essentially described the strengthening of the legislative system, efforts to combat impunity, the improvement of the situation in prisons and respect for human rights. Regarding the legislative measures, it should first be pointed out that the Federal Act to Prevent and Punish Torture had been amended, as the offence had been too vaguely defined, making it impossible to take

effective criminal action. As a result of the amendment of article 3 of the Act, the offence of torture occurred when a public official inflicted severe pain or suffering on another person; that act alone constituted the offence, irrespective of its result or consequences. The penalty for the offence was determined by article 64 of the Federal Penal Code and article 25 of the Penal Code for the Federal District. The amendment of article 10 of the Federal Act had clearly established the responsibility of the Federal Government for the reparation of damage, including moral damage, caused to the victims of torture by the wilful misconduct of public servants. The Act and other legislation stated that such reparation included compensation for material and moral damage, including payment for any remedial treatment necessary for the restoration of the victim's health. The offence of torture was also punished at the state level. Of the 31 states and the Federal District making up the Republic, only 6 states had not yet established the offence of torture: they were Campeche, Guerrero, Hidalgo, Oaxaca, Veracruz and Yucatán.

7. The reforms introduced were also designed to develop the authorities' awareness of the problem of torture and to encourage them to establish machinery to monitor the acts of their officials. Between June 1992 and December 1995, the Office of the Attorney-General of the Republic had published numerous legal ordinances governing the conduct of its officials with the aim of protecting human rights and combating impunity. He cited the regulations relating to the Office of the Attorney-General of the Republic (Organization) Act, which had in particular instituted, in 1993, the Directorate-General for the Protection of Human Rights, which formed part of the Office of the Attorney-General. The other ordinances were listed in paragraph 33 of the report.

8. Regarding efforts to combat impunity, the figures provided by the National Human Rights Commission showed that the number of complaints of torture was steadily decreasing. It had fallen from 446 in 1990 (i.e. 13.7 per cent of all complaints addressed to the Commission) to 59 between June 1995 and May 1996 (0.7 per cent of all complaints). During the first three months of 1997, the Commission had found that torture had occurred in 19 cases. It was true that the figures were not always reliable, notably because the Commission was no longer the only body that received complaints since the establishment of the state human rights commissions. However, the number of complaints of torture filed with the state commissions had also fallen. Consequently, there was no denying that the preventive measures had begun to bear fruit.

9. Regarding the prosecution of suspected perpetrators of acts of torture, as a result of the joint action of the human rights commissions and the Offices of the Public Prosecutor, criminal proceedings for torture had been instituted against 53 State officials. In 14 of those cases, the proceedings had been for homicide resulting from torture. In two cases the judge had found the accused guilty of the offence of torture, and in five others he had found them guilty of homicide resulting from torture. Those five cases were mentioned in the report. Since its establishment in December 1995, the National Human Rights Commission had made a total of 1,022 recommendations and found that torture had occurred in 105 cases. It had informed the competent authorities and the public of its conclusions through the press, and the follow-up to its recommendations was described in paragraph 61 of the report.

Regarding the follow-up to those recommendations, he pointed out that between 26 May and 2 December 1996 the Commission's recommendations had led to the adoption of disciplinary or penal measures against 40 public officials and that 60 penal or disciplinary measures had been taken against 63 officials as a result of proposals by mediators. In all, after six and a half years, the work of the Commission had made it possible to punish 2,567 public officials, 1,173 of whom were federal officials, 1,330 officials of various States and 64 municipal officials.

10. Regarding the situation in prisons, the Mexican Government was concerned about the problem of overcrowding. On 31 December 1996, there had been 103,262 prisoners in 440 detention centres designed to accommodate 97,565 persons. The average rate of prison overcrowding was 5.52 per cent, although the situation varied from one state to another. The Federal Government and the state governments had begun to reorganize Mexico's prisons and the National Human Rights Commission had introduced a programme to ensure that the fundamental rights of prisoners were observed by organizing visits and publishing recommendations. Other State organs and bodies were also engaged in monitoring conditions of detention.

11. The human rights commissions and the offices of the legal advisers received complaints from detainees, including complaints of torture, and took the necessary measures. His Government was following with particular interest the introduction of training programmes for prison personnel and public officials, one of whose main aims was to prevent torture. A document entitled "The supervision of prisons. Guidelines to ensure the protection of the person and property of detainees, visitors and workers" had been published by the Office of the Attorney-General of the Republic. The National Human Rights Commission had issued a document entitled "Means of strengthening efforts to combat drug consumption and trafficking in prisons". In conjunction with the National Aids Prevention and Control Council (CONASIDA), it had also distributed a document entitled "Guide for the adoption of measures to prevent and treat HIV/AIDS" in prisons.

12. As a means of strengthening and promoting respect for human rights, his Government was encouraging training and information measures at all levels. For example, training was being provided by the Legal Research Institute of the National Autonomous University of Mexico and by the National Human Rights Commission. Some programmes were specially designed for members of the police and the legal profession. The Office of the Attorney-General of the Republic was also undertaking a variety of measures to promote human rights. One of the objectives of the programmes of the training institute of the Office of the Attorney-General was to improve the quality of the work done by the representatives of the federal public prosecutor's office and federal judicial police officers. In February 1997, all personnel had followed a "national course on human rights and the duties of the police", which had highlighted the prohibition of torture. The Ministry of Defence also organized courses for officials who dealt with persons arrested or detained. The staff of the Military Justice Department had followed various courses on human rights, organized jointly by the National Autonomous University of Mexico and the Mexican Human Rights Academy. Regarding training for forensic physicians, the National Criminal Science Institute and the Forensic Medicine Department regularly provided training courses on how to determine whether people had

been tortured before they died. The forensic medicine syllabus also included a programme on "forensic traumatology" to teach forensic physicians to identify signs of torture on living persons and on corpses.

13. The decline in the number of cases of torture could thus be ascribed to the major legislative reforms and the increased number of human rights training courses. In conjunction with those measures, his Government ensured that persons guilty of torture received both legal and political penalties. Nevertheless, much remained to be done in order to convince all the competent authorities of the need to eradicate and punish torture. But it seemed that respect for human rights had now become irreversibly rooted in Mexico's institutions and society. Together with the three branches of the State, intergovernmental and non-governmental organizations participated in efforts to attain the ultimate objective: the complete elimination of human rights violations. If it was to develop, the human rights culture should also be backed by international cooperation. His Government took part in the international community's activities to combat torture and cooperated with the United Nations institutions responsible for protecting human rights. In 1996, it had invited Mr. Nigel Rodley, Special Rapporteur of the Commission on Human Rights on the question of torture, to visit Mexico. The visit, which it had been impossible to organize earlier for reasons of scheduling, was due to take place in August 1997. It was against the background he had described that his Government was endeavouring to discharge its obligations under the Convention.

14. Mr. GONZÁLEZ POBLETE (Country Rapporteur) thanked the Mexican delegation for its oral introduction of Mexico's third periodic report (CAT/C/34/Add.2), which had thus been made easier to understand. He also thanked the delegation for its unfailing punctuality in submitting its reports, which were prepared in accordance with the Committee's guidelines. Regarding article 1 of the Convention, he repeated the observation made when Mexico had submitted its second periodic report, which was that in its definition of acts constituting torture, article 3 of the Federal Act to Prevent and Punish Torture mentioned neither intimidation nor the use of force. He therefore suggested that it might be necessary to amend the Act to take that into account.

15. Regarding article 2 of the Convention, he noted with satisfaction from paragraph 20 of the report that the State was now liable in solidum for damage resulting from wilful misconduct of public servants in the performance of their duties and that it also bore secondary liability in the event of a culpable wrong. After having read paragraph 22 of the report, however, he wondered to what extent State responsibility was really effective. In particular, he asked for details of how the amount of any compensation was calculated, what body determined the amount and on the basis of what criteria, and whether there was any appeal procedure if the victim was dissatisfied with the amount awarded.

16. Paragraph 23 of the report said that the reform establishing the liability of the State had had preventive effects with regard to torture, and referred to recommendation 98/95 of the National Human Rights Commission. The Commission had recommended that the State of Jalisco should directly assume liability for compensating the victims of the armed repression by the police

against detainees in Guadalajara prison. He asked how the recommendation had actually been followed up by the State of Jalisco, because the report made no mention of any dismissal, suspension or even reprimand.

17. Regarding paragraph 31 of the report, which stated that the jurisprudential rulings of the Supreme Court of Justice and the collegiate circuit courts testified to change in judicial practice, he asked for concrete examples of those rulings.

18. Despite a series of commendable initiatives, there was no denying that between June and December 1996, for example, the National Human Rights Commission had received 5,009 complaints, almost one third of which concerned human rights violations. Furthermore, officials of the Office of the Attorney-General headed the list, with 302 complaints against them. For the period June 1990-December 1996, there had been 6,028 complaints against officials of that Office. He found it difficult to reconcile those figures with the assertion that the Office of the Attorney-General "always endeavoured to ensure that public servants comply with the obligations under the procedural statute and with the commitments under the Convention and other international instruments" (report, para. 32).

19. On the whole, the provisions of the General Population Act were in conformity with article 3 of the Convention, with the exception of the discretionary power vested in the Executive by article 33 of the Constitution, and which empowered it immediately to expel without trial any alien whose presence was considered undesirable. In 1995, two aliens had been expelled under that provision, even though they had been in the category covered by article 3, paragraph 1, of the Convention; one of them had been expelled to Argentina and the other to Spain. He would appreciate further information on those cases.

20. Regarding article 4 of the Convention, the statistics provided in paragraphs 53 to 63 were rather confusing as they were more relevant to the observations concerning articles 12 and 13 of the Convention. Generally speaking, however, the Federal Act effectively classified torture as an offence and prescribed adequate penalties, together with penalties for complicity or mere involvement. However, it was necessary to confirm that the Act was actually enforced. Apparently, the activities of the National Human Rights Commission were themselves alone intended to ensure compliance with the obligation to carry out a prompt and impartial investigation when there was reasonable ground to believe that an act of torture had been committed. However, he noticed disparities in the figures submitted. He had carried out a thorough comparative analysis in order to determine what factors could account for a particular disparity or contradiction, and had reached the conclusion that the statistics failed to reflect the facts. He feared that they might point to the existence of impunity, or at least serious delays in action by the courts, and asked for clarification.

21. On the whole, Mexican legislation was in conformity with the obligations deriving from article 5 of the Convention. However, the provisions whereby article 5, paragraph 2, were to be implemented seemed inadequate, as it was apparent from paragraph 91 of the report that the perpetrator of an offence committed abroad who was an alien and whose victim was an alien but who was on

Mexican territory would not be liable to punishment. In that respect, Mexican legislation did not seem to be consistent with article 5, paragraph 2, of the Convention.

22. Mexican legislation complied with the provisions of article 6 of the Convention as the offence of torture was prosecuted ex officio. However, according to paragraph 78 of the report, preventive detention for purposes of extradition only came into play when the requesting State identified the offence for which extradition was requested and made a statement to the effect that an arrest warrant had been issued against the wanted person by the competent authority. That restriction was contrary to the universal obligation to prosecute perpetrators of torture.

23. Regarding article 7 of the Convention, Mexico was apparently refusing to extradite a Mexican national suspected of having committed acts of torture solely on the grounds of his nationality; that provision was not in conformity with article 7 of the Convention. It was stated in paragraphs 92 and 93 of the report that, in conformity with article 14 of the Extradition Act, no Mexican could be turned over to a foreign State "save in exceptional cases". He asked what those exceptional cases might be.

24. Paragraph 99 of the report, concerning the implementation of article 8 of the Convention, simply listed the laws and regulations governing extradition; that was inadequate to describe how the State discharged its obligations under that article. However, the offence of torture was covered by the Federal Penal Code and included in the extradition treaties ratified by Mexico (report, para. 98); that was apparently in conformity with the provisions of article 8. Nonetheless, the prohibition on extraditing a Mexican who had not been tried by the national courts was contrary to both article 7 and article 8 of the Convention.

25. It could be concluded from the information provided in paragraphs 100, 101 and 102 of the report that Mexico was discharging its obligations under article 9 of the Convention.

26. It was apparent from paragraphs 103 to 130 of the report, relating to education and information regarding the prohibition against torture (Convention, art. 10), that the National Human Rights Commission, the Office of the Attorney-General of the Republic and the Ministry of Defence had prepared systematic education and information programmes. Those commendable measures held out the promise of a gradual improvement in the human rights situation as a whole and of the eradication of torture in particular.

27. Paragraphs 131 to 136 of the report (Convention, art. 11) described a broad range of rules and regulations relating to the treatment of detainees or prisoners, in particular those governing the procedure for complaints and investigations, although they provided no information on how they were implemented. It was regrettable that, according to the latest report by the National Human Rights Commission, the Ministry of the Interior's General Directorate for Prevention and Social Rehabilitation was the government department with the second highest number of alleged perpetrators of human rights violations. However, he commended the publication, by the Office of

the Attorney-General of the Republic, of ordinances regulating the conduct of its public servants and aimed at safeguarding human rights and combating impunity (report, para. 33).

28. Regarding the implementation of articles 12 and 13 of the Convention, the relevant paragraphs of the report indicated that responsibility for holding a prompt and impartial investigation of acts of torture lay with the Office of the Attorney-General of the Republic. However, the trend in the number of complaints of torture (report, paras. 54 et seq.) seemed to point to a deficiency in the functioning of that Office as the ultimate monitoring body for all the federal representatives of the Public Prosecutor's Department. The supervisory machinery described in paragraphs 140 to 145 solely concerned places of detention and imprisonment. In that respect, too, the information on the role of the police in investigating acts of torture was insufficient. It would seem that Mexico carried out its obligations under articles 12 and 13 of the Convention through the National Human Rights Commission. Those articles, and particularly article 13, not only established the right of any person who alleged he had been tortured to complain to the competent State authorities, but also made it mandatory for the State to conduct a prompt and impartial investigation of the case, in order to establish the truth and also to determine the criminal and administrative liability of the culprit and to impose the appropriate penalties. The National Human Rights Commission undoubtedly performed a valuable role in promoting human rights, but its scope for action with regard to torture was limited, as it lacked the necessary jurisdiction. Its role was confined to drawing cases to the attention of the competent authorities, and any recommendations it made, despite their undeniable moral value, were in no way binding on those authorities. Furthermore, no information was provided on the imposition of any administrative penalties in the 105 cases of torture found by the National Human Rights Commission, or on the role played by the Public Prosecutor's Office and the courts in investigating and punishing acts of torture.

29. In view of the observations made in relation to articles 12 and 13 of the Convention, consideration of provisions to ensure the right to compensation (Convention, art. 14) was purely theoretical since, in conformity with article 10 of the Federal Act to Prevent and Punish Torture, a court decision establishing that torture had been committed was required before the right to compensation could be invoked. The Committee would appreciate further information in the form of replies to the following questions. For the right to compensation to be effective, was it essential for a particular individual to have been convicted of torture, or was a recommendation by the National Human Rights Commission sufficient? Could the victim of an act of torture obtain compensation in the absence of a criminal conviction or a recommendation by the National Human Rights Commission? Who determined the amount of compensation?

30. Paragraphs 159 and 160 of the report referred to a number of legal provisions designed to ensure that statements obtained through torture could not be invoked as evidence (Convention, art. 15). Nevertheless, information received by the Committee showed a lack of effectiveness in the implementation of those provisions due, according to a reliable source, to the way the system itself operated. Detainees were allegedly compelled under torture to sign self-incriminating statements. In addition, according to the same sources,

detainees were not allowed access to counsel of their choice, but were assigned court-appointed "lawyers" often totally lacking in legal competence and subordinate to the authority of the administration and of the police.

31. He invited the Alternate Country Rapporteur to complete the observations.

32. Mr. SORENSEN (Alternate Country Rapporteur) said that his statement would essentially concern the implementation of articles 10, 11 and 14 of the Convention. Referring to the statistics provided in paragraphs 51 and 52 of the report (Convention, art. 3), he was surprised to note that out of more than 100,000 persons who had been expelled in 1995 - in itself an extraordinary high figure, only 20, who had been afraid to return to their own country, had requested interviews with the United Nations High Commissioner for Refugees.

33. The Committee was gratified to note that five pages of the report concerned provisions for the implementation of article 10 of the Convention. He nevertheless regretted that the training programmes described appeared exclusively to concern the human rights aspect, and drew attention to the fact that article 10 required the State party to ensure that education and information regarding the prohibition against torture were fully included in the training of the various officials involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. That explicit requirement was not therefore reflected in the current programmes and it would be desirable for the Mexican authorities to remedy that shortcoming. To do so they could request the assistance of the Activities and Programmes Branch of the Centre for Human Rights or regional organizations. The personnel concerned should be aware, for example, that torture victims did not spontaneously describe what had happened to them. Moreover, none of the training programmes referred to seemed to be specifically for doctors, even though training for doctors, particularly those who worked in police stations, barracks and prisons, as well as for forensic physicians, was an essential means of preventing torture.

34. The legal and other measures for obtaining compensation for the victims of torture, set out in article 10 of the Federal Act (report, para. 155), were apparently in conformity with the aims of article 14 of the Convention. However, he asked whether victims could obtain full redress and compensation when they were unable, as was frequently the case, to identify their torturer. In such circumstances did they have to institute civil or criminal proceedings?

35. Those sections of the report on the implementation of article 11 of the Convention dealt mainly with the complaints mechanisms available to detainees and prisoners. However, article 11 required the State party to keep the conditions of arrest, detention and imprisonment under systematic review. Those were two different concepts. Regarding regular visits to prisons (report, para. 133), he asked whether the representatives of the National Human Rights Commission were authorized to visit prisons without giving notice, to talk to prisoners in private, to visit all parts of prisons, and to consult all files and documents. He asked to whom they reported on their visit, whether the teams were wholly independent, whether they included a

doctor and whether representatives of NGOs could also visit places of detention. As article 11 also provided for systematic review of interrogation rules, instructions, methods and practices, and thus of the behaviour of police officers, he drew the Mexican delegation's attention to the four guarantees to which, in the view of the Committee, all persons taken into police custody were entitled: the right to be informed of their rights, the right to inform a third party of their arrest, the right to communicate with counsel of their own choosing and the right to be examined by a doctor of their choice. He asked whether those guarantees existed under Mexican legislation, and which agency was responsible for supervising police methods. Finally, he requested precise statistics on the number of cases handled by the National Human Rights Commission, as each recommendation could concern several cases, and the number of torture cases heard by judges. He drew attention to the United Nations Voluntary Fund for Victims of Torture and asked the Mexican authorities, if they had not already done so, to contribute to it as a token of their respect for the victims of torture.

36. Mr. CAMARA paid tribute to the Government of Mexico for the remarkable efforts it had made in the legislative sphere in order to meet, as far as possible, the requirements deriving from its accession to the Convention. He nevertheless wished to ask a number of specific questions.

37. The Office of the Attorney-General of the Republic played a decisive role in furthering human rights, and particularly in efforts to combat torture. In view of the fact that torturers were in most cases law-enforcement officials who came under the authority of the Executive branch, it would be very useful to know whether the Attorney-General, who was responsible for investigating and prosecuting such cases, was independent of the political authorities, and in particular the Executive, whether he was able to carry out his functions freely and whether his term of office was clearly determined.

38. With regard to expulsions, paragraph 43 of the report stated that the law provided that "a refugee may not be returned to his country of origin, nor sent to any other where his life, liberty or safety will be threatened". However, paragraphs 51 and 52 contained alarming figures relating to the number of asylum-seekers expelled in 1995. While it was true that the large number could be partly accounted for by Mexico's size, he noted that the aliens who had requested an interview with the United Nations High Commissioner for Refugees included citizens of Somalia, Liberia and Sierra Leone who, because of the situation in their country, should be treated, one would assume, as refugees. They could hardly be returned without breaching the Convention. It would also be interesting to know what the purpose of their interview with the High Commissioner had been.

39. Lastly, the International Federation of Human Rights had just reported that its representatives, who had visited Mexico in order to inquire into allegations of torture and other human rights violations, had been expelled from the country on 17 April 1997. He asked for clarification.

40. Mr. YAKOVLEV said that the Government of Mexico manifestly demonstrated a genuine determination to implement the Convention, and that the approaches it had adopted in the legislative sphere were highly commendable.

Nevertheless, there were still specific problems. For example, it was well known that most acts of torture occurred in the period immediately following an arrest. A suspect could be held in detention on a warrant duly issued by the competent authorities, or held in police custody without need for a warrant. He asked what was the maximum duration of police custody, which was a period of high risk.

41. The Public Prosecutor's Office played a very important role and seemed to possess extremely extensive powers: it was competent to conduct the pre-trial examination, to institute proceedings, to gather and submit evidence to the courts, to make submissions and to protect the rights of plaintiffs. That seemed rather excessive for a single organ, which was moreover responsible for investigating allegations of human rights violations by law-enforcement officials. The Constitution apparently provided that only statements made before the public prosecutor or a judge, or in the presence of a lawyer, could be used as evidence of guilt. He would like to know whether any confession obtained in other circumstances was necessarily declared inadmissible by the courts, and asked the delegation for examples of actual cases in which such evidence had actually been rejected.

42. Mr. BURNS said that he was most favourably impressed by the remarkable effort being made by Mexico to bring its Constitution and legislation into line with the provisions of the Convention and to set up a legislative framework for the protection of human rights. However, the information received from NGOs and other sources pointed to a very deep dichotomy between legislation, on the one hand, and dramatic reality, on the other. As the Country Rapporteur had emphasized, a disturbing malfunction was apparent in the manner in which the judiciary applied legislation. He suggested that that might be attributable to a different judicial culture, which made no provision for the concept of the independence of the judiciary. Be that as it may, the practice of accepting as evidence confessions obtained under constraint, to employ a euphemism, was manifestly contrary to the State party's obligations under the Convention. He asked how Mexico intended to resolve the contradiction which clearly lay at the heart of the problems. The impunity which torturers enjoyed was also a key issue, and the existing machinery was apparently incapable of ensuring that persons who committed crimes in the name of the State were prosecuted with due rigour. Amnesty International had emphasized that the victims of those practices in Mexico were not just political opponents or indigenous populations, but also women, particularly if they were involved in human rights or politics. That was a very worrying phenomenon; rapes of arrested persons by policemen, which were by definition acts of torture, were disturbingly frequent. Another very surprising element was the apparent ineffectiveness of a legal remedy such as amparo. Applications for amparo sometimes went unattended to for more than 12 months, and were thus ineffective. He asked for an explanation of how the amparo procedure operated in Mexico and whether it really was an effective remedy against unlawful arrest and detention. Finally, he referred to the case of Manuel Manríquez San Agustín, which had been reported by Amnesty International. That man, who did not speak Spanish, had been interrogated and

forced to sign a document which he had been unable to read; on the basis of that document, he had been charged with murder. Several appeals had been turned down, testifying to the ineffectiveness of amparo. He requested the Mexican delegation to obtain further information on the case, in order to ascertain whether the man was still detained.

43. Mr. REGMI noted with satisfaction that the report under consideration (CAT/C/34/Add.2) was in conformity with the Committee's guidelines for the presentation of reports and gave a satisfactory account of new measures and developments since the submission of the previous report. He particularly welcomed the existence of the National Human Rights Commission and of the commissions set up in each State; they had a vital role to play in the prevention and punishment of torture.

44. As many of the questions he wished to ask had already been put, he would merely refer to two specific points. First, in the report submitted to the fifty-third session of the Commission on Human Rights, the Special Rapporteur on questions relating to torture had said that, according to the information he had received, the courts still frequently accepted as evidence confessions that had been obtained through torture, and that the confessions formed the basis of convictions, in violation of the Federal Act to Prevent and Punish Torture. An application for amparo was apparently ineffective for torture victims, and their initial confessions were apparently still considered admissible, even if it could be established that they had been obtained through the use of force. If that was in fact the case, it was a blatant violation of article 15 of the Convention. Furthermore, article 2 of the Convention provided that an order from a superior officer or a public authority could not be invoked as a justification of torture. He asked what the current practice was in Mexico.

45. A large number of national or international NGOs reported numerous cases of torture, occasionally providing photographs in support of their allegations. One man, who had been abducted on 27 April 1995 in Mexico City, had been beaten, tortured and murdered. Two other men had been abducted in October 1994 and subsequently tortured by the Federal District judicial police to force them to confess to their involvement in an act of violence the previous January. Bishop Samuel Ruiz, an eminent human rights activist, had frequently been threatened and attacked by representatives of the authorities. On 8 July 1996, two members of peasants' organizations had been arrested by the Guerrero State police and tortured in a police station to force them to confess to thefts. The younger of them, who was 17 years old, had died on 15 September as a result of torture and no investigation had been carried out. According to a report published by Amnesty International in 1996, there were dozens of political prisoners in Mexico; human rights activists were threatened and assaulted and law-enforcement officials systematically practised torture. At least two persons had recently disappeared and the fate of the numerous persons who had disappeared in recent years was still unknown. Dozens of peasant activists and members of the opposition had been the victims of extrajudicial executions. According to the same report, detainees

continued to be tortured in various ways - electric shocks, mock executions, rapes, etc. He asked whether there was any basis for all those allegations and how many people had been prosecuted and punished for such acts.

46. Mr. PIKIS said that he would first ask a question about paragraph 61 of the core document (HRI/CORE/1/Add.12/Rev.1), which indicated that under the Constitution, the basic human rights safeguards - and thus probably those set forth in the Convention - could be suspended in emergencies; however, no derogation from the Convention was possible in any circumstances. It was precisely in emergencies that the observance of its provisions was decisive.

47. Regarding paragraph 60 of the core document and paragraph 21 of the third periodic report (CAT/C/34/Add.2), concerning State liability, he inquired whether the State was liable in solidum for any violations of the Convention or whether it merely bore secondary liability; if the latter was the case, the circumstances in which secondary liability arose were not clearly defined. Pursuant to article 14 of the Convention, the State was required to assume liability in solidum for acts of torture in all circumstances.

48. It was not clear from paragraph 29 of the report whether persons held for questioning were entitled to remain silent at all stages of the procedure; if that was not the case, there would be a serious shortcoming in the legislation. He also wondered who the "confidant" referred to in paragraph 30 of the report might be and what authority he held. He too was disturbed by the large number of expulsions referred to in paragraph 51 of the report and asked for information on the status, composition, mandate and independence of the regional delegates referred to in paragraph 140 of the report.

49. With regard to paragraph 136 of the report, it would be useful to know the authorities to whom an appeal could be made and whether an ordinary citizen could bring a criminal indemnity action against the perpetrator of acts of which he had been a victim and against the authorities, with a view to obtaining compensation. The "penal settlement" referred to in the same paragraph had somewhat sinister connotations, and he would appreciate details about that institution and who was held there.

50. Regarding paragraph 151 of the report, he wondered what the "political penalties" entailed. On the question of compensation, referred to in paragraph 155, he asked whether a victim who had received outside medical assistance was entitled to reimbursement of his expenses by the State. Paragraph 159 referred to offences whose seriousness was such that the law excluded the possibility of release on bail with security: he asked whether such offences were clearly defined by the law, and what they were.

51. He requested information on what categories of complaints were considered complaints of torture and what criteria were used to decide whether to institute criminal or disciplinary proceedings against State officials.

52. He had been disturbed to learn of the reports submitted by NGOs concerning torture in Mexico. The reports indicated that there was a "culture of repression" in Mexico and that no effective action was being taken against

it. It would have been preferable for that crucial problem to be referred to openly in the report, particularly as the victims were the most vulnerable members of society - political opponents, minorities, women and, perhaps, asylum-seekers. In that regard, there was apparently a deep discrepancy between legislation and practice.

53. The CHAIRMAN invited the Mexican delegation to reply to the questions asked at the next meeting.

54. The Mexican delegation withdrew.

The meeting rose at 1 p.m.